

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

LISA C. SISK,

Plaintiff,

v.

C.T. CORPORATE SYSTEMS, AGENT
FOR COUNTRY DELITE FARMS,
INC.,

Defendant.

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Case No. 3:05-0192
Judge Echols

ORDER

Pending before the Court is the Report and Recommendation filed May 27, 2005 (Docket Entry 30) recommending that Defendant's Motion to Dismiss (Docket Entry No. 5) be granted and this action be dismissed. For the reasons which follow, the Court will adopt the Report and Recommendation and dismiss this action.

This action was originally filed by Plaintiff in state court and removed by Defendant to this Court because the action involves a question of federal law, i.e. a challenge to the legality of Title 26 of the United States Code which authorizes the withholding of funds from Plaintiff's paycheck pursuant to an administrative notice of levy issued by the Internal Revenue Service on account of unpaid tax liabilities. After removal, Defendant filed the instant Motion to Dismiss.¹

¹Upon the filing of the Motion to Dismiss, the Magistrate Judge issued an Order informing Plaintiff that she had twenty days to respond and that a failure to file a timely response could result in a Recommendation that the case be dismissed. (Docket Entry No. 11). That Order was returned by Plaintiff and affixed thereto was (as the Magistrate Judge properly described it) "incomprehensible language beginning 'Your Offer of Contract for Subject Matter Jurisdiction is Hereby Rejected and Returned to You

In the Report and Recommendation, the Magistrate Judge recommended dismissal of the Complaint because the Defendant, Plaintiff's employer, had no alternative but to honor the tax levy, 26 U.S.C. § 6332(a), and, in any event, was shielded from liability for following the law. 26 U.S.C. §§ 3403 & 6332(e). Moreover, to the extent Plaintiff had any quarrel about the propriety of the IRS tax levy, her claim is against the United States and not her employer.

Upon de novo review, it is clear that the Magistrate Judge was correct in recommending dismissal under Federal Rule of Civil Procedure 12(b)(6) since Plaintiff can set forth no set of facts which would entitle her to relief. As such the Report and Recommendation is adopted.

Plaintiff has not filed any objection to the Report and Recommendation, even though she was apprised of her right to do so. Instead of filing any such objection in this Court, Plaintiff filed an "Addendum to Motion to Correct Judicial Error on Plaintiff Status" (Docket Entry No. 32) and a "Judicial Notice of Protest and Objection to USDC Case: 3:05-0192" (Docket Entry No. 31).² Neither is an Objection to the Magistrate Judge's conclusion that dismissal is appropriate.

The former seeks an order from the state court correcting her status from "'person' to a natural woman with secured

Unsigned in Full Accord With Truth in Lending.'" (Docket Entry No. 30 at 1, n.1).

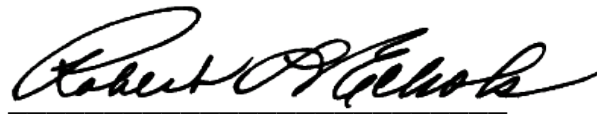
²Those filings were forwarded by the state court Clerk to the Clerk of this Court for filing in this action.

rights. . . ." (Docket Entry No. 30 at 1). The second asserts that no removal has occurred since she did not consent to removal. This second filing also states "there are two federal court systems; the courts of the United States and United States courts," (Id.), although the distinction between the two is unclear. The upshot of this filing is this Court does not have jurisdiction even though the case was removed since "[t]he Section 1446 Procedural [sic] for removal should be declared void for vagueness as it mixes both the district court of the United States and the United States district court in the same procedure with defendants removing a criminal prosecution from a state court." (Id. at 3).

The types of arguments advanced in Plaintiff's filings have been described as "frivolous," "unworthy of comment," see, Brookbank v. C.I.R., 2000 WL 658030 (6th Cir. 2000), "tired," see, Coleman v. C.I.R., 791 F.2d 68, 70 (7th Cir. 1986), and the "hackneyed tax protester refrain," see, United States v. Collins, 902 F.2d 619, 629 (10th Cir. 1990). This Court need not add to the list as Plaintiff has not filed any proper objections to the Report and Recommendation.

Accordingly, this Court ADOPTS the Report and Recommendation, (Docket Entry No. 30), GRANTS Defendant's Motion to Dismiss, (Docket Entry No. 5) and DISMISSES THIS ACTION WITH PREJUDICE.

IT IS SO ORDERED.


ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE